

ESTTA Tracking number: **ESTTA704248**Filing date: **10/23/2015**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Simply Southern Fine Arts and Home Decor, LLC
Granted to Date of previous extension	10/25/2015
Address	70488 Highway 21 Suite 600 Covington, LA 70433-8139 UNITED STATES
Attorney information	Warner J. Delaune Baker Donelson Bearman Caldwell & Berkowitz, PC 450 Laurel Street Chase North Tower, FL 20 Baton Rouge, LA 70801 UNITED STATES wdelaune@bakerdonelson.com Phone:225-381-7000

Applicant Information

Application No	86450713	Publication date	04/28/2015
Opposition Filing Date	10/23/2015	Opposition Period Ends	10/25/2015
Applicant	Dazzle Up, LLC 209 Creek Ridge Rd., Suite E Greensboro, NC 27406 UNITED STATES		

Goods/Services Affected by Opposition

Class 014. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Costume jewelry
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3335887	Application Date	02/23/2004
Registration Date	11/13/2007	Foreign Priority Date	NONE
Word Mark	SIMPLY SOUTHERN		

Design Mark	Simply Southern
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2004/02/23 First Use In Commerce: 2004/02/24 Retail and computerized online orderingservices featuring home furnishings, wall accessories, candles, tableware, housewares, glasswares, floral wreaths, wallshelves, benches, chairs, upholstered furnishings, clocks, wall artwork, primitive notecards, stationery, primitive dolls, wood figurines, pottery, baskets, pillows, rugs, dried florals

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	SIMPLY SOUTHERN		
Goods/Services	jewelry		

Attachments	78372656#TMSN.png(bytes) Simply_Southern_-_Notice_of_Opposition.pdf(95984 bytes) Exhibit A - SN 86450713.pdf(290214 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Warner J. Delaune/
Name	Warner J. Delaune
Date	10/23/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

**SIMPLY SOUTHERN FINE ARTS
AND HOME DÉCOR, LLC**

Opposer,

v.

DAZZLE UP, LLC

Applicant.

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Opposition No.: _____

Serial No. 86/450,713

NOTICE OF OPPOSITION

Simply Southern Fine Arts and Home Décor, LLC, a limited liability company organized and existing under the laws of the State of Louisiana, with a principal place of business located at 70488 Highway 21, Suite 600, Covington, Louisiana (hereinafter "Opposer" or "Simply Southern"), believes that it would be damaged by registration of the SIMPLY SOUTHERN mark shown in U.S. Trademark Application Serial No. 86/450,713 (the "Dazzle Up Application"), by Dazzle Up, LLC (the "Applicant" or "Dazzle Up").

The Dazzle Up Application was filed on November 11, 2014, under Section 1(b) to register the standard character mark SIMPLY SOUTHERN (the "Opposed Mark"), and was published in the Official Gazette on April 28, 2015, for the following goods (as amended on or about March 6, 2015):

- International Class 014 - Costume jewelry

Opposer filed timely requests for extension to oppose, which the Board granted through Sunday, October 25, 2015.

As grounds for this Opposition, Opposer alleges that:

1. Simply Southern Fine Arts and Home Décor, LLC ("Opposer"), is a limited liability company formed under the laws of the State of Louisiana.

2. Opposer is the owner of the SIMPLY SOUTHERN name and trademark and U.S. Registration No. 3,335,887, for:

"Retail and computerized online ordering services featuring home furnishings, wall accessories, candles, tableware, housewares, glasswares, floral wreaths, wall shelves, benches, chairs, upholstered furnishings, clocks, wall artwork, primitive notecards, stationery, primitive dolls, wood figurines, pottery, baskets, pillows, rugs, dried florals" in International Class 035.

3. Opposer has used the SIMPLY SOUTHERN mark extensively in connection with jewelry for several years, and prior to the filing date of the Dazzle Up Application.

4. Notwithstanding Opposer's ownership of the SIMPLY SOUTHERN mark for goods in International Class 035, the '887 Registration, and Opposer's prior use in connection with jewelry in the U.S., Applicant filed the Dazzle Up Application on November 11, 2014 (Exhibit A - Dazzle Up Application).

5. On information and belief, Applicant has never used the Opposed Mark in commerce.

6. Opposer has not granted any trademark rights to Applicant. Applicant is not affiliated with, connected with, endorsed by, or sponsored by Opposer, nor has Opposer

approved any of the goods offered or sold, or intended to be sold, by Applicant under the Opposed Mark.

7. The Opposed Mark wholly and identically incorporates the trademark SIMPLY SOUTHERN, and the Opposed Mark falsely suggests a connection, association, or sponsorship with Opposer.

8. The Opposed Mark, when used in connection with the goods identified in the Dazzle Up Application, is likely to confuse the consuming public to believe that Applicant's goods are authorized, sponsored, licensed or controlled by Opposer, or are in some way related to Opposer.

9. The Opposed Mark falsely suggests a connection with Opposer in violation of Section 2(a) of the Trademark Act, since the Opposed Mark points uniquely at Opposer, and purchasers will assume that goods offered under the Opposed Mark are connected with Opposer.

10. Based upon Opposer's prior use in commerce of the SIMPLY SOUTHERN mark in connection with jewelry, the Opposed Mark, if used and registered, will result in a likelihood of confusion among customers of both Opposer and Applicant, in violation of Section 2(d) of the Trademark Act.

11. If Applicant is permitted to use and register the Opposed Mark for the goods as specified therein, the damage to Opposer's goodwill and reputation will be enormous and irreparable. Such use and registration would dilute the singular, distinctive and unique quality of the SIMPLY SOUTHERN mark in violation of Section 43(c) of the Trademark Act.

WHEREFORE, Opposer prays that, pursuant to Section 13 of the Lanham Act, 15 U.S.C. § 1063, U.S. Trademark Application Serial No. 86/450,713 be denied in its entirety, and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,

Dated: October 26, 2015

/Warner J. Delaune/

Warner J. Delaune

Attorney for Opposer,
Simply Southern Fine Arts and Home Décor, LLC

BAKER, DONELSON, BEARMAN, CALDWELL
& BERKOWITZ, P.C.
450 Laurel Street
Chase North Tower, Floor 20
Baton Rouge, LA 70801

(225) 381-7000 (office)
(225) 382-0232 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served on Applicant and on correspondent for Applicant, on this 26th day of October, 2015, by sending the same via First Class Mail, postage prepaid, to:

Dazzle Up, LLC
209 Creek Ridge Rd., Suite E
Greensboro, NC 27406

Mr. David Sar
Brooks, Pierce, McLendon, Humphrey & Leonard, LLP
P.O. Box 26000
Greensboro, NC 27420

/Warner J. Delaune/

Warner J. Delaune

The USPTO will perform maintenance and apply upgrades to the Trademark Status and Document Retrieval (TSDR) system beginning at 10 p.m., Friday, October 23 and ending at 5 a.m., Saturday, October 24 ET. TSDR will be unavailable during this period.

STATUS

DOCUMENTS

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Mark: SIMPLY SOUTHERN

SIMPLY SOUTHERN

US Serial Number: 86450713

Application Filing Date: Nov. 11, 2014

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For more information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: May 26, 2015

Publication Date: Apr. 28, 2015

Mark Information

Mark Literal Elements: SIMPLY SOUTHERN

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US Registrations: [4167424](#)

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Costume jewelry

International Class(es): 014 - Primary Class

U.S Class(es): 002, 027, 028

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use:	No	Currently Use:	No
Filed ITU:	Yes	Currently ITU:	Yes
Filed 44D:	No	Currently 44D:	No
Filed 44E:	No	Currently 44E:	No
Filed 66A:	No	Currently 66A:	No
Filed No Basis:	No	Currently No Basis:	No

Current Owner(s) Information

Owner Name: Dazzle Up, LLC

Owner Address: 209 Creek Ridge Rd., Suite E
Greensboro, NORTH CAROLINA 27406
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: NORTH CAR

Attorney/Correspondence Information

Attorney of Record

Attorney Name: David W. Sar

Attorney Primary Email dsar@brookspierce.com

Address:

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: DAVID W. SAR
BROOKS, PIERCE, MCLENDON, HUMPHREY & LEONARD, L.L.
PO BOX 26000
GREENSBORO, NORTH CAROLINA 27420-6000
UNITED STATES

Phone: 336-373-8850

Fax: 336-232-907

Correspondent e-mail: dsar@brookspierce.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
May 26, 2015	EXTENSION OF TIME TO OPPOSE RECEIVED	
Apr. 28, 2015	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-	

	MAILED	
Apr. 28, 2015	PUBLISHED FOR OPPOSITION	
Apr. 08, 2015	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Mar. 25, 2015	LAW OFFICE PUBLICATION REVIEW COMPLETED	68123
Mar. 24, 2015	ASSIGNED TO LIE	68123
Mar. 05, 2015	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 05, 2015	EXAMINER'S AMENDMENT ENTERED	88888
Mar. 05, 2015	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Mar. 05, 2015	EXAMINERS AMENDMENT E-MAILED	6328
Mar. 05, 2015	EXAMINERS AMENDMENT -WRITTEN	77765
Mar. 03, 2015	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Mar. 03, 2015	NON-FINAL ACTION E-MAILED	6325
Mar. 03, 2015	NON-FINAL ACTION WRITTEN	77765
Mar. 03, 2015	ASSIGNED TO EXAMINER	77765
Nov. 18, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Nov. 14, 2014	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: MARCY, AMY ALFIERI

Law Office Assigned: LAW OFFICE

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Mar. 25, 2015

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